UNITED
NATIONS

CCPR

International Covenant on
Civil and Political Rights

Distr.
GENERAL

CCPR/SP/40
30 March 1994

ORIGINAL: ENGLISH

MEETINGS OF THE STATES PARTIES
Thirteenth meeting

NOTE VERBALE DATED 15 MARCH 1994 FROM THE PERMANENT MISSION OF THE REPUBLIC OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Mission of the Republic of Croatia to the United Nations presents its compliments to the Secretary-General and has the honour to request that the enclosed aide-mémoire be circulated as a document of the thirteenth meeting of the States parties to the International Covenant on Civil and Political Rights.

Annex

AIDE-MÉMOIRE DATED 15 MARCH 1994 FROM THE PERMANENT MISSION OF CROATIA TO THE UNITED NATIONS

The Republic of Croatia objects to the participation of the Federal Republic of Yugoslavia (Serbia and Montenegro) in the thirteenth meeting of the States parties to the International Covenant on Civil and Political Rights, owing to the fact that the above-mentioned delegation cannot be considered a State party to the said Covenant.

The Republic of Croatia strongly objects to the pretension of the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue the State, international, legal and political personality of the former Socialist Federal Republic of Yugoslavia.

In this connection, the Republic of Croatia wishes to emphasize that, in their relevant resolutions concerning this issue, the Security Council and the General Assembly did not accept this claim of the Federal Republic of Yugoslavia (Serbia and Montenegro). The Security Council, in its resolution 757 (1992), particularly noted that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted". This position was reaffirmed in Security Council resolution 777 (1992), in which the Council further noted that "the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist" and that "the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations". On 22 September 1992, the General Assembly, in its resolution 47/1, agreed with the Security Council recommendation.

In this regard, the Republic of Croatia wishes to draw attention to the opinions of the Arbitration Commission of the United Nations/European Community International Conference on the Former Yugoslavia, particularly opinions Nos. 8, 9 and 10 of 4 July 1992. The Commission concluded that "the process of dissolution of the Socialist Federal Republic of Yugoslavia ... is now complete and the Socialist Federal Republic of Yugoslavia no longer exists" (opinion No. 8), and that "the successor States to the Socialist Federal Republic of Yugoslavia must together settle all aspects of the succession by agreement ... and that none of the successor States may thereupon claim for itself alone the membership rights previously enjoyed by the former Socialist Federal Republic of Yugoslavia" (opinion No. 9). Furthermore, according to opinion No. 10 of the Commission, since there was no agreement among the successor States of the Socialist Federal Republic of Yugoslavia as to the succession of the rights and obligations of the Socialist Federal Republic of Yugoslavia, general rules of international law which deal with succession of States with respect to treaties, property, archives and debts should be applied. In connection with this issue, the Commission considers that "the Federal Republic of Yugoslavia (Serbia and Montenegro) is a new State which cannot be considered the sole successor to the Socialist Federal Republic of Yugoslavia".

All the successor States of the former Socialist Federal Republic of Yugoslavia, except the Federal Republic of Yugoslavia (Serbia and Montenegro), conducted themselves according to the rules of international law and - in the framework of the United Nations - notified the Secretary-General, in his capacity as depository of international treaties, of their intention to be considered, in respect of their respective territories, a party, by virtue of succession of the Socialist Federal Republic of Yugoslavia, to various treaties; and sought acceptance to membership in international organizations in accordance with the rules of such organizations.

The Federal Republic of Yugoslavia (Serbia and Montenegro) has, however,not acted according to rules of international law and the aforementioned resolutions of the Security Council and the General Assembly. Moreover, it has ignored them and tried to participate in international forums as a State party to treaties and/or as a member of international organizations with the intention of creating a precedent by which it would later seek to prove that it is the sole legitimate successor to the former Socialist Federal Republic of Yugoslavia.

Since the Federal Republic of Yugoslavia (Serbia and Montenegro) has not notified the Secretary-General of its succession to the International Covenant on Civil and Political Rights as one of the successor States of the former Socialist Federal Republic of Yugoslavia, it cannot be considered to be a party to the said Covenant. Therefore, as a non-party, the said delegation has no right to participate in the thirteenth meeting of States Parties to the International Covenant on Civil and Political Rights.